

**TENNESSEE GENERAL ASSEMBLY  
FISCAL REVIEW COMMITTEE**



**FISCAL NOTE**

**SB 1834 - HB 1935**

March 17, 2009

**SUMMARY OF BILL:** Creates a new felony offense for illegal possession of a firearm and requires the punishment to be enhanced if the offense occurs within 1.5 miles of a school, park, playground, or entertainment area while the defendant is on any form of pretrial release, suspended sentence or probation. If the offense occurs in a motor vehicle, the vehicle shall be confiscated. Requires a \$5,000 minimum bail for any person charged with illegal possession of a firearm yet authorizes judge to reduce bail to \$2,500. Any defendant released on bail shall be required to report to a day reporting center until the charge is disposed of. Creates a new felony offense for any person to transfer a firearm to a juvenile who disregards a substantial risk that the juvenile will use the weapon in committing any crime. Creates a super bounty fund to be paid to individuals providing information leading to the arrest of any person engaged in illegal gun trade. The cost of the fund will be defrayed by imposing a \$200 surcharge on bail bonds in each illegal gun possession case. Creates a gun offender registry to be hosted and maintained by the Tennessee Bureau of Investigation (TBI). Local law enforcement would be responsible for registering offenders. Offenders would pay \$150 with local law enforcement retaining \$100 and the remaining \$50 going to TBI.

**ESTIMATED FISCAL IMPACT:**

**Increase State Revenue – Not Significant**

**Increase State Expenditures - \$104,900/One-Time/TBI**

**\$81,800/Recurring/TBI**

**\$14,182,400/Incarceration\***

**Increase Local Revenue – Not Significant**

**Increase Local Expenditures – Exceeds \$100,000\*\***

Assumptions:

- The bill does not specify the felony classifications for the new offenses. It is assumed that the felony offenses are Class E felonies and the enhancement will be Class D felonies.
- According to the Administrative Office of the Courts, there has been an average of 280 misdemeanor convictions of possession of a weapon in

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each of the past five years. State court convictions are 10 percent of the total convictions. Total convictions, including general sessions courts, are estimated to be an average of 2,800 per year. The Department of Correction (DOC) estimates 50 percent (1,400) are related to being armed with a firearm. DOC estimates 25 percent (350) would receive a Class E felony rather than a Class A misdemeanor for illegal possession of a firearm.

- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will result in an additional 37 offenders. The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 387 offenders.
- According to DOC, the average operating cost per offender per day for calendar year 2009 is \$59.80. According to DOC, the average post-conviction time served for a Class E felony is 1.63 years and 2.43 years for a Class D felony. The cost per offender at 2.43 years is \$52,995.96 (\$59.80 x 886.22 days). The cost per offender at 1.63 years is \$35,548.11 (\$59.80 x 594.45 days). The total additional operating cost for 387 offenders is \$13,757,118.57 (\$35,548.11 x 387).
- DOC estimates one percent (4) of these offenses would be committed within 1.5 miles of a school, park, playground, or entertainment area while the defendant is on some form of pretrial release, suspended sentence or probation. These four offenders would receive a Class D rather than a Class E. The additional cost of increasing the average sentence length from 1.63 years to 2.43 years is \$17,447.85 (\$52,995.96 - \$35,548.11). The total additional operating cost for four offenders is \$69,791.40 (\$17,447.85 x 4).
- According to the Tennessee Council of Juvenile and Family Courts 2006 and 2007 Annual Juvenile Statistical Reports, there has been an average of 850 children with possession of a weapon on school property in each of the past two years. DOC estimates one percent (9) would be traced back to the adult who transferred the firearm to the juvenile and would receive a felony conviction as a result. Population growth will result in one additional offender in the tenth year. The maximum cost is based on 10 offenders receiving a Class E felony. The total additional operating cost for 10 offenders is \$355,481.10 (\$35,548.11 x 10).
- Since this bill creates a new offense, no recidivism discount has been included.
- TBI will require approximately \$100,000 to design, test, and implement the new gun offender registry. In addition, one additional Law Enforcement Information Coordinator position would be required for coordination and training on the new registry. The recurring cost for the position is estimated at \$81,800 which includes \$53,200 for salary and benefits and \$28,600 for travel, supplies, rent, insurance and other

related expenses. The one-time cost of \$4,900 includes furniture, telephone, computer and other supplies. TBI estimates a not significant increase in revenue as most defendants will be indigent and unable to pay.

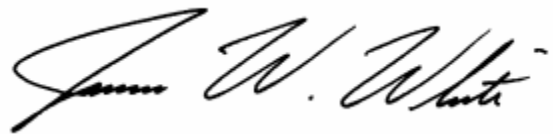
- Requiring all offenders released on bail to report to a day reporting center pursuant to this legislation will result in an increase in expenditures for local government. Most counties do not have day reporting centers. Court clerks will incur administrative costs to collect and transfer the bail bond surcharge of \$200 to the super bounty fund. Counties will incur additional costs for collection the required information on gun offenders to send to the TBI and additional costs for impounding of additional vehicles. The increase in expenditures for local governments is estimated to exceed \$100,000. The revenue generated from the \$100 fee will offset some of the administrative costs for local governments. A not significant increase in local revenue as a result of any confiscated vehicles that are sold.

*\*Tennessee Code Annotated, Section 9-4-210, requires that: For any law enacted after July 1, 1986, which results in a net increase in periods of imprisonment in state facilities, there shall be appropriated from recurring revenues the estimated operating cost of such law. The amount appropriated from recurring revenues shall be based upon the highest cost of the next 10 years.*

*\*\*Article II, Section 24 of the Tennessee Constitution provides that: no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

## **CERTIFICATION:**

This is to duly certify that the information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "James W. White". The signature is fluid and cursive, with the first name "James" written in a larger, more prominent script than the last name "White".

James W. White, Executive Director

/lsc